

CUDDY &  
FRIDER

March 4, 2008

BY FAX - 212-805-6390

Hon. William H. Pauley  
United States District Court Judge  
Southern District of New York  
500 Pearl Street (Chambers - 2210)  
New York, New York 10007

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**MEMO ENDORSED**

RE: Sunco Group Inc. v. Earth Biofuels, Inc.  
07 CV 4776 (WIIP)

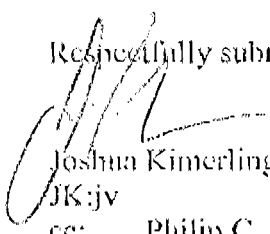
Dear Judge Pauley:

We represent the Defendant, Earth Biofuels, Inc. in connection with the above-referenced action. Pursuant to Your Honor's Scheduling Order dated January 22, 2008, the Court scheduled oral argument on March 7, 2008 in connection with a planned motion to dismiss portions of the Complaint.

Inasmuch as Plaintiff has amended its Complaint to eliminate the claims that were to be the subject of Defendant's motion to dismiss, no motion has been filed and, therefore, the March 7, 2008 oral argument date can be cancelled.

We appreciate the Court's consideration of this matter.

Respectfully submitted,

  
Joshua Kimerling  
JK:jv

cc: Philip C. Berg, Esq. (By E-Mail: phil.berg@bergpartners.com and By Fax: 212-601-2751)

*Application granted.*  
**SO ORDERED:**

  
WILLIAM H. PAULEY III U.S.D.J.

3/5/08